

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

APR -5 2011

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2010-0270
)	DEPARTMENT A
Appellee,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
GABRIEL ALFONSO CARRASCO,)	the Supreme Court
)	
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF COCHISE COUNTY

Cause No. CR200900221

Honorable Donna Beumler, Judge Pro Tempore

AFFIRMED AS CORRECTED

Harriette P. Levitt

Tucson
Attorney for Appellant

B R A M M E R, Presiding Judge.

¶1 Appellant Gabriel Carrasco was charged with possession of a dangerous drug for sale, specifically methamphetamine having a weight of less than nine grams, a class two felony. *See* A.R.S. § 13-3407(A)(2), (B)(2). Carrasco voluntarily absented himself from trial, and the jury found him guilty of the charged offense. After finding Carrasco had two prior felony convictions, the trial court sentenced him to an aggravated

maximum, fifteen-year prison term, to be served “day for day.” Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), stating she has reviewed the record thoroughly and has found no arguable issues to raise on appeal. Counsel asks us to search the record for “error.” Carrasco has not filed a supplemental brief.

¶2 Viewed in the light most favorable to sustaining the verdict, the evidence was sufficient to support the jury’s finding of guilt. *See State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999). The evidence presented at trial showed that, in a search incident to Carrasco’s arrest for a traffic violation, officers discovered 3.16 grams of methamphetamine and \$740 in cash in his pocket. Carrasco told officers he recently had “brought back” an ounce of methamphetamine from Tucson, most of which he had sold, and the rest remained in his pocket. Following Carrasco’s arrest, officers obtained a warrant to search his vehicle and discovered unused plastic “baggies” and a “silver blue spoon.” After the trial concluded, the court found Carrasco had three prior felony convictions. The sentence imposed is within the statutory limit. *See* A.R.S. §§ 13-3407(E), (F), and 13-709.03(A).

¶3 In reviewing the record for reversible error pursuant to *Anders*, we observed that the indictment and the sentencing order refer to A.R.S. § 13-3407(G) (administering a dangerous drug to an individual under eighteen without consent), a subsection of the statute that is factually inapplicable to this matter. However, because Carrasco did not object to what appears to be a typographical error, he has waived the

right to relief for all but fundamental, prejudicial error. *See State v. Henderson*, 210 Ariz. 561, ¶¶ 19-20, 115 P.3d 601, 607 (2005). We find no such error here. Carrasco was convicted of possession of a dangerous drug for sale, not of administering a dangerous drug to a minor. Moreover, as previously noted, the sentence imposed is within the statutory limit for the offense of which he was properly convicted. *See* A.R.S. §§ 13-3407(E), (F), and 13-709.03(A).

¶4 Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and have found none. Therefore, we correct the sentencing order by removing the reference to A.R.S. § 13-3407(G), but affirm Carrasco's conviction and sentence in all other respects.

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Presiding Judge

CONCURRING:

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge